CASES ON THE LAW OF EVIDENCE, selected from decisions of English and American Courts, by Edward W. Hinton, Professor of Law in the University of Chicago. St. Paul: West Publishing Company, 1919. Pp. xxiv, 1098.

A new case-book on Evidence invites, of course, a comparison with the well-known collections by Professor Thayer and Dean Wigmore. An examination of Professor Hinton's work indicates that it can well sustain such comparison. To be sure, a case-book is primarily a tool for teacher and student—a means to an end—and it is difficult to know, without actual trial, how well it will accomplish that end. But there are some features about Professor Hinton's book which justify a belief that it will be even better, as a means for teaching Evidence, than either of its admirable predecessors. The author has had the advantage of the monumental work done by Professor Thayer and Dean Wigmore, both in their treatises and in their collections of cases (he gives grateful acknowledgment of this in his preface); he has also had the advantage of a wider field for the selection of cases, some of his most effective cases having been decided since the publication of the earlier case-books; and he has had a fairly long experience as a practicing lawyer during the period in which many lawyers thought we were approaching a time when, as Mr. Choate once put it, there is no "such thing in existence as the law of evidence." It seems to this reviewer that all of these factors are reflected advantageously in the arrangement and selection of the cases contained in the book.

As to the arrangement, the author adopts some features from each of the earlier works. He follows the Thayer plan of introducing the subjects of Court and Jury, Burden of Proof, and Judicial Notice at the beginning of the book instead of toward the end, where Dean Wigmore puts them. Here the advantage seems to lie pretty clearly with the plan adopted by the author. The subject-matter, while difficult, is fundamental, and a clearer appreciation of its problems, and of the powers of the judge in solving them, clears away a lot of complicating and disconcerting factors which otherwise would inevitably vex the student by obscuring the real issues in the following cases. As to the subject of Witnesses, the author follows Dean Wigmore's plan of introducing it early in the work instead of at the end, where it appears in Professor Thayer's collection. Here, too, the choice seems clearly right. An early examination of the organism which presents and examines evidence—an examination which observes its origin and growth, its personnel, and the methods of its operation—is of obvious advantage. Chapters I and II of Professor Hinton's book supply excellent material for such examination; the student who has mastered them is far better prepared to take up the other divisions of the subject (the so-called rules of exclusion, for instance) than a student who has little or no appreciation of either the phylogeny or the physiology of the modern trial court. To this reviewer it seems clear that the author has done wisely in placing these subjects at the beginning of his course. Indeed, many teachers using Professor Thayer's book have in practice actually made this arrangement by taking up, early in

the course, the chapter on Witnesses and treating it as if it were Chapter II instead of Chapter V.

As to the selection of cases, of course the real test is the test of the class-room, and an opinion given before actual use of the case-book may well be a mistaken one. But an examination of the cases selected by the author certainly gives one the impression that they will teach well. Many of them are recent cases; yet the history of the formative period of the law is not neglected, though perhaps less emphasized than in the older case-books. One noteworthy feature—relating both to the arrangement and to the selection of the cases—is the author's obvious preference for a broad and general scheme of classification rather than the minutely analytical scheme adopted by Dean Wigmore. The result of this broad grouping is, naturally, a classification which is not strictly accurate and logical, a lumping together of cases which are similar and yet distinguishable. From the point of view of the thorough analyst, this plan is open to objection; but it is certain that many teachers approve of a method which compels the student to make his own classification after finding for himself the proper *fundamentum divisionis*.

EVANS HOLBROOK.

THE IMMUNITY OF PRIVATE PROPERTY FROM CAPTURE AT SEA, by Harold Scott Quigley. Bulletin of the University of Wisconsin, Economics and Political Science Series, Vol. IX, No. 2. Madison, 1918. Pp. 200.

The immunity of private property in maritime warfare means freedom from capture and condemnation for privately owned enemy ships and enemy cargoes on board. Immunity has never been the rule. Is it desirable as a reform? The United States Government has always favored it and the idea has received influential support in other countries. What is the proposal worth and what may be expected to come from it?

Dr. Quigley believe that the question of immunity must be considered in connection with blockade, contraband, continuous voyage, visit and search, war zones, and other aspects of the law of capture which affect primarily the ships and cargoes of neutrals. Accordingly, he bases his dissertation upon the premise that practice under rules for the protection of neutral ships and goods, as well as enemy goods on neutral ships, should be a reliable indication of the probable value of proposed limitations on the capture of enemy ships and cargoes. The practice of the principal maritime powers as regards capture at sea is reviewed briefly from the *Consolato del Mare* of the fourteenth century until the present day. Due attention is given to the development of theory in the writing of publicists. The evidence which the author assembles with admirable impartiality is far from assuring for the reader who would like to believe in the rule of immunity. While the author feels that the development of the law of capture is on the whole a record of progress, he concludes that limitations on the right of capture have rarely been effective in practice. Belligerents have unfailingly subordinated neutral rights to their own interests. New limitations are likely to be made in time of peace